

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2005-1795-PST-E TCEQ ID: RN101432466 CASE NO.: 27122**  
**RESPONDENT NAME: SARN MANAGEMENT INC. DBA TOOR FOOD MART**

Page 1 of 2

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

**SITE WHERE VIOLATIONS OCCURRED:** 899 Main Street, Liberty, Liberty County

**TYPE OF OPERATION:** Convenience store with retail sales of gasoline

**SMALL BUSINESS:** ☒ Yes ☐ No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location

**INTERESTED PARTIES:** No one other than the ED and the Respondent expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired May 4, 2009. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Mr. Phillip M. Goodwin, P.G., Litigation Division, MC 175, (512) 239-0675  
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

**TCEQ Enforcement Coordinator:** Ms. Elvia Maske, Waste Enforcement Section, MC 149, (512) 239-0789

**TCEQ Regional Contact:** Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623

**Respondent:** Mr. Pritam S. Toor, President, Sarn Management Inc., 9327 Windrush Drive, Spring, Texas 77379

**Respondent's Attorney:** Not represented by counsel on this enforcement matter.

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> September 20, 2005</p> <p><b>Date of NOE Relating to this Case:</b> October 12, 2005</p> <p><b>Background Facts:</b> The EDPRP was filed May 1, 2006. The Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and an Agreed Order was signed February 20, 2009.</p> <p><b>Current Compliance Status:</b> The respondent has begun maintaining UST records at the Facility, and has current financial assurance through January 2010.</p> <p><b>PST:</b></p> <ol style="list-style-type: none"> <li>Failed to maintain all Underground Storage Tank ("UST") records at the Facility and make available for inspection to Commission personnel upon request [30 TEX. ADMIN. CODE § 334.10(b)].</li> <li>Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs [30 TEX. ADMIN. CODE § 37.815(a) and (b)].</li> <li>Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1)].</li> </ol>	<p><b>Total Assessed:</b> \$5,152</p> <p><b>Total Deferred:</b> \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid/Due to General Revenue:</b> \$292/\$4,860</p> <p>The Respondent paid \$292 of the administrative penalty. The remaining amount of \$4,860 of the administrative penalty shall be payable in 36 monthly payments of \$135 each.</p> <p><b>Site Compliance History Classification</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>Immediately, begin maintaining all UST records at the Facility.</li> <li>Within 30 days: <ol style="list-style-type: none"> <li>Submit documentation that demonstrates acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage cause by accidental releases arising from the operation of petroleum USTs; and</li> <li>Begin performing monthly reconciliation of inventory control records.</li> </ol> </li> <li>Within 45 days, submit written certification to demonstrate compliance with these Ordering Provisions.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 19, 2005

<b>DATES</b>	<b>Assigned</b> 17-Oct-2005	<b>Screening</b> 21-Oct-2005	<b>EPA Due</b>
	<b>PCW</b> 27-Jan-2006		

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	Sarn Management Inc. dba Toor Food Mart		
<b>Reg. Ent. Ref. No.</b>	RN101432466		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor Source

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	27122	<b>No. of Violations</b>	3
<b>Docket No.</b>	2005-1795-PST-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Enf. Coordinator</b>	Elvia Maske
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** \$4,600

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** 12% Enhancement **Subtotals 2, 3, & 7** \$552

**Notes** Enhancement due to two NOV's with same or similar violations and one NOV without same or similar violations.

**Culpability** No 0% Enhancement **Subtotal 4** \$0

**Notes** The respondent does not meet the culpability criteria.

**Good Faith Effort to Comply** 0% Reduction **Subtotal 5** \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with a small x)

**Notes** The respondent is not yet in compliance.

**Economic Benefit** 0% Enhancement\* **Subtotal 6** \$0

**Total EB Amounts** \$1,371  
**Approx. Cost of Compliance** \$1,500  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** \$5,152

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

**Notes**

**Final Penalty Amount** \$5,152

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** \$5,152

**DEFERRAL** Reduction **Adjustment** \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes** This is not an expedited case.

**PAYABLE PENALTY** \$5,152

Screening Date 21-Oct-2005

Docket No. 2005-1795-PST-E

PCW

Respondent Sam Management Inc. dba Toor Food Mart

Policy Revision 2 (September 2002)

Case ID No. 27122

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101432466

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Elvia Maske

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	2	10%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 12%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer &lt;

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes Enhancement due to two NOVs with same or similar violations and one NOV without same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 12%

Screening Date 21-Oct-2005

Docket No. 2005-1795-PST-E

PCW

Respondent Sarn Management Inc. dba Toor Food Mart

Policy Revision 2 (September 2002)

Case ID No. 27122

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101432466

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Elvia Maske

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.10(b)

Secondary Rule Cite(s)

Violation Description Failure to maintain all UST records at the Facility and make available for inspection to Commission personnel upon request. Specifically, the overfill installation and cathodic protection records were not available.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				
Potential				

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			X	1%

Matrix Notes Less than 30% of the rule requirement was not met.

Adjustment -\$9,900

Base Penalty Subtotal \$100

## Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$100

One single event is recommended based on the September 20, 2005 investigation.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$112

This violation Final Assessed Penalty (adjusted for limits) \$112

# Economic Benefit Worksheet

Respondent Sarn Management Inc. dba Toor Food Mart  
Case ID No. 27122  
Reg. Ent. Reference No. RN101432466  
Media [Statute] Petroleum Storage Tank  
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$100	20-Sep-2005	01-May-2006	0.6	\$3	n/a	\$3
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs Estimated cost to maintain required records. The Date Required is the date of the investigation and the Final Date is the projected date of compliance.

<b>Avoided Costs</b>		ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)					
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs n/a

Approx. Cost of Compliance **\$100** TOTAL **\$3**

Screening Date 21-Oct-2005

Docket No. 2005-1795-PST-E

PCW

Respondent Sam Management Inc. dba Toor Food Mart

Policy Revision 2 (September 2002)

Case ID No. 27122

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101432466

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Elvia Maske

Violation Number 2

Primary Rule Cite(s) 30 Tex. Admin. Code § 37.815 (a) and (b)

Secondary Rule Cite(s)

Violation Description Failure to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				
Potential				

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes 100% of the rule requirement was not met.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

## Violation Events

Number of Violation Events 2

mark only one use a small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$2,000

Two single events (one per tank) are recommended based on the investigation date of September 20, 2005.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$1,365

Violation Final Penalty Total \$2,240

This violation Final Assessed Penalty (adjusted for limits) \$2,240

# Economic Benefit Worksheet

Respondent Sarn Management Inc. dba Toor Food Mart  
Case ID No. 27122  
Reg. Ent. Reference No. RN101432466  
Media [Statute] Petroleum Storage Tank  
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0
Notes for DELAYED costs	n/a						

<b>Avoided Costs</b>		ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)					
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]	\$1,300	20-Sep-2004	20-Sep-2005	1.0	\$65	\$1,300	\$1,365
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Notes for AVOIDED costs	The estimated cost (\$650 per tank) to provide financial assurance for two petroleum USTs. The Date Required is one year prior to the investigation and the Final Date is the date of the investigation.						

Approx. Cost of Compliance **\$1,300**

**TOTAL \$1,365**



Screening Date 21-Oct-2005

Docket No. 2005-1795-PST-E

PCW

Respondent Sarn Management Inc. dba Toor Food Mart

Policy Revision 2 (September 2002)

Case ID No. 27122

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101432466

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Elvia Maske

Violation Number 3

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.50(d)(1)(B)(ii)

Secondary Rule Cite(s) Tex. Water Code § 26.3475(c)(1)

Violation Description Failure to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons. Specifically, the reconciliation of detailed inventory control records (leak check) were not done.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	X			

## &gt;&gt; Programmatic Matrix

Falsification				Percent
	Major	Moderate	Minor	

Matrix Notes Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

## Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One quarterly event is recommended from the investigation date of September 20, 2005 to the screening date of October 21, 2005.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$2,800

This violation Final Assessed Penalty (adjusted for limits) \$2,800

# Economic Benefit Worksheet

Respondent Sarn Management Inc. dba Toor Food Mart

Case ID No. 27122

Reg. Ent. Reference No. RN101432466

Media [Statute] Petroleum Storage Tank

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$100	20-Sep-2005	01-May-2006	0.6	\$3	n/a	\$3
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to reconcile inventory control records. The Date Required is the date of the investigation and the Final Date is the projected date of compliance.

<b>Avoided Costs</b>		ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)					
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

n/a

Approx. Cost of Compliance **\$100**

**TOTAL \$3**

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600742902 Sam Management Inc. Classification: AVERAGE Rating: 5.92  
Regulated Entity: RN101432466 TOOR FOOD MART Classification: AVERAGE Site Rating: 8.83

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 39771  
REGISTRATION  
AIR NEW SOURCE PERMITS REGISTRATION 72121  
WASTE WATER GENERAL PERMIT PERMIT TXG830120  
Location: 899 MAIN ST, LIBERTY, TX, 77575 Rating Date: 9/1/2008 Repeat Violator: NO  
TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: November 25, 2008  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: October 21, 2000 to October 21, 2005  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Elvia Maske Phone: (512) 239 - 0789

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

## Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A

B. Any criminal convictions of the state of Texas and the federal government.  
N/A

C. Chronic excessive emissions events.  
N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
1 10/23/2003 (248811)  
2 08/11/2004 (268511)  
3 05/03/2005 (375111)  
4 10/03/2005 (432364)  
5 10/12/2005 (432558)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 10/23/2003 (248811)  
N/A Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)  
Description: Failure to develop and maintain all UST records required by the provisions of Title 30.

Date: 05/03/2005 (375111)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 115, SubChapter C 115.246(4)

Description: Failure to maintain proof of attendance and completion of training as specified in 115.248 (state approved Stage II training course) and documentation of all Stage II training for each employee.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(3)

Description: Failure to maintain a maintenance log for all repair/replacements conducted at the facility.

Date: 08/01/2005 (397458)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)

Description: Failure to develop and maintain all UST records.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
SARN MANAGEMENT INC. DBA  
TOOR FOOD MART  
RN101432466

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BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2005-1795-PST-E

### I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Sarn Management Inc. dba Toor Food Mart ("Sarn Management") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Sarn Management, appear before the Commission and together stipulate that:

1. Sarn Management owns and operates a convenience store with retail sales of gasoline located at 899 Main Street in Liberty, Liberty County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Sarn Management agree that the Commission has jurisdiction to enter this Agreed Order, and that Sarn Management is subject to the Commission's jurisdiction.
4. Sarn Management received notice of the violations alleged in Section II ("Allegations") on or about October 17, 2005.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Sarn Management of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of five thousand one hundred fifty-two dollars (\$5,152.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Sarn Management paid two hundred ninety-two dollars (\$292.00) of the administrative penalty. The remaining amount of four thousand eight hundred sixty dollars (\$4,860.00) of the administrative penalty shall be payable in 36 monthly payments of one hundred thirty-five dollars (\$135.00) each, pursuant to 30 TEX. ADMIN. CODE § 70.9(a). The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Sarn Management fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Sarn Management's failure to meet the payment schedule of this Agreed Order constitutes the failure by Sarn Management to timely and satisfactorily comply with all of the terms of this Agreed Order.
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Sarn Management have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Sarn Management has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

Sarn Management is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 334.10(b) by failing to maintain all Underground Storage Tank ("UST") records at the Facility and make available for inspection to Commission personnel upon request, as documented during an investigation on September 20, 2005. Specifically, the overfill installation and cathodic protection records were not available.
2. 30 TEX. ADMIN. CODE § 37.815(a) and (b) by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs, as documented during an investigation on September 20, 2005.
3. 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1) by failing to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons, as documented during an investigation on September 20, 2005. Specifically, the reconciliation of detailed inventory control records (leak check) was not done.

### III. DENIALS

Sarn Management generally denies each allegation in Section II ("Allegations").

### IV. ORDER

1. It is, therefore, ordered by the TCEQ that Sarn Management pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Sarn Management's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Sarn Management Inc. dba Toor Food Mart, Docket No. 2005-1795-PST-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. Sarn Management shall undertake the following technical requirements:

- a. Immediately upon the effective date of this Agreed Order, Sarn Management shall begin maintaining all UST records at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.10.
- b. Within 30 days after the effective date of this Agreed Order, Sarn Management shall:
  - i. Submit documentation that demonstrates acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs, in accordance with 30 TEX. ADMIN. CODE § 37.815 to:

Mr. Rob Norris, Senior Financial Analyst  
Financial Assurance Unit, MC 184  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087
  - ii. Begin performing monthly reconciliation of inventory control records, in accordance with 30 TEX. ADMIN. CODE § 334.50; and
- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below and include detailed supporting logs and other documents to demonstrate compliance with Ordering Provisions 2.a. and 2.b.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

The certification shall be submitted to:



Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager  
Texas Commission on Environmental Quality  
Houston Regional Office  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon Sarn Management. Sarn Management is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Sarn Management fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Sarn Management's failure to comply is not a violation of this Agreed Order. Sarn Management shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Sarn Management shall notify the Executive Director within seven days after Sarn Management becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Sarn Management shall be made in writing to the Executive Director. Extensions are not effective until Sarn Management receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Sarn Management in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Sarn Management, or three days after the date on which the Commission mails notice of the Order to Sarn Management, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

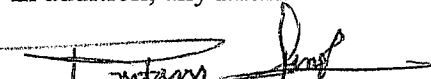
April 1, 2009  
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that Sarn Management's failure to comply with the Ordering Provisions, if any, in this order and/or Sarn Management's failure to timely pay the penalty amount, may result in:

- A negative impact on Sarn Management's compliance history;
- Greater scrutiny of any permit applications submitted by Sarn Management;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against Sarn Management;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Sarn Management; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

2.20.09  
Date

PRITHAM S - TOOR  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Sarn Management Inc. dba Toor Food Mart

V- PRESIDENT  
\_\_\_\_\_  
Title